

ATTORNEY DOCKET NO. 4982/5
PATENTREMARKS

In the most recent Office Action dated September 30, 2002, the Examiner rejects claims 1-30 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,005,122 to Griffin et al. ("Griffin"). As discussed in the interview, the applicants amend claims 1, 4, 10, and 16 to more fully claim aspects of the present invention. For at least the reasons set forth below and discussed at the interview, the applicants respectfully assert that the pending claims are patentable over the prior art of record and request their allowance.

As discussed in the interview, Griffin does not contain any teaching or suggestion of each of a plurality of management servers being able to control the other. Indeed, Griffin instead discusses a top-down hierarchy that contains a master management server which enables a slave management server to provide management services. The slave management server is not conversely able to control the master management server. This architecture significantly limits the scalability of the system.

Thus, Griffin does not disclose or suggest, as set forth in applicants' claim 1, a backup and retrieval system for a network computing system comprising: at least two backup cells each comprising a backup device executing a backup of the data stored on at least one group of network devices, a management component controlling the backup of the data to the backup device and each of the plurality of backup cells communicatively coupled to at least one other of the plurality of backup cells, and each of the plurality of backup cells adaptable to be controlled by a management component in another of the plurality of backup cells. For at least the above reasons, and as further discussed in the interview, claim 1 is patentable over the cited art.

ATTORNEY DOCKET NO. 4982/5
PATENT

Further, Griffin does not contain any suggestion or teaching of a first management server directly controlling a backup device controlled by a second management server. Instead, in Griffin, a master management server control backup devices by passing commands through and using a slave management server. As one consequence, if the slave management server fails, the master may be unable to control its backup devices. This also limits the scalability of the system.

Thus, Griffin does not disclose or suggest, as set forth in applicants' claim 4, a backup and retrieval system for a network computing system comprising: a first backup cell comprising at least one backup device and a first manager component controlling the backup of the data to the at least one backup device, and a second backup cell communicatively coupled to the first backup cell, the second backup cell comprising: a second manager component, and the second manager component directly controlling the backup of the data to the at least one backup device. For at least the above reasons, and as further discussed in the interview, claim 4 is patentable over the cited art.

Griffin also does not disclose or suggest, as set forth in applicants' claim 10, a backup and retrieval system for a network computing system comprising: at least one backup device executing backup functions for the data contained on a first group of network devices, a first manager component executing on the first network device controlling the backup of the data to the at least one backup device, and a second manager component directly controlling the backup of the data to the at least one backup device. For at least the above reasons, and as further discussed in the interview, claim 10 is patentable over the cited art.

ATTORNEY DOCKET NO. 4982/5
PATENT

Thus, Griffin does not disclose or suggest, as set forth in applicants' claim 16, a backup and retrieval system for a network computing system comprising: at least one backup device executing backup functions for data contained on a first group of network devices, a first network device controlling the backup of the data contained on a first group of network devices to the at least one backup device, and a second network device directly controlling the backup of the data to the at least one backup device. For at least the above reasons, and as further discussed in the interview, claim 16 is patentable over the cited art.

Thus, Griffin does not disclose or suggest, as set forth in applicants' claim 20, a backup and retrieval system for a network computing system comprising: a plurality of backup cells comprising a backup device executing a backup of data stored on at least one of a plurality of network devices, a management component for controlling the backup of the data to the backup device, whereby the first backup cell is capable of being controlled by a management component in the other backup cell. For at least the above reasons, and as further discussed in the interview, claim 20 is patentable over the cited art.

In addition, absent from Griffin is any teaching or suggestion of a backup management component present on any network device other than a server node. Griffin is limited to a specific architecture and only discusses client/server backup arrangements. Each operational mode of this rigid server/client architecture limits implementation of management components to server nodes. The present system, by contrast does not so limit where a management component may reside.

ATTORNEY DOCKET NO. 4982/5
PATENT

Thus, Griffin does not disclose or suggest, as set forth in applicants' claim 23, a backup and retrieval system for a network computing system, the network computing system comprising a plurality of network devices storing data, the backup and retrieval system comprising one or more backup cells comprising: a client component, configured to reside on and execute on any network device including a second network device and communicatively coupled to at least one media component, directing the media component to backup the data according to operational parameters established by the client component; and a management component, configured to reside on and execute on any network device including a third network device and communicatively coupled to at least one client component, directing the client component to backup the data according to backup parameters of the backup cell established by the management component; a backup device executing a backup of the data stored on at least one of the plurality of network devices; a media component, configured to reside on and execute on any network device including a first network device, communicatively coupled to at least one backup device for controlling the backup of the data to the backup device. For at least the above reasons, and as further discussed in the interview, claim 23 is patentable over the cited art.

Thus, Griffin does not disclose or suggest, as set forth in applicants' claim 27, a backup and retrieval system for a network computing system, the network computing system comprising a plurality of network devices storing data, the backup and retrieval system comprising: a plurality of backup cells comprising: a management component, residing on and configured to run on any network device and communicatively coupled to at least one backup device, for controlling the backup of the

ATTORNEY DOCKET NO. 4982/5
PATENT

data to the backup device; and a backup device executing a backup of the data stored on at least one of the plurality of network devices. For at least the above reasons, and as further discussed in the interview, claim 27 is patentable over the cited art.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over Griffin and the other prior art of record. However, given the applicants' position on the patentability of the independent claims, it is not deemed necessary at this point to delineate such distinctions.

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the examiner is invited to call the applicants' undersigned representative to discuss any issues relating to this application.

Dated: July 1, 2003

I hereby certify that the correspondence attached herewith is being transmitted by facsimile to the Commissioner for Patents, Alexandria, VA 22313

Seth H. Ostrow 7-1-03
Seth H. Ostrow Date
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Respectfully submitted,

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